



Domestic Violence

Protective Orders



Definition

Fam C 6211

“Domestic Violence” is abuse perpetrated against any of the following persons:

- Spouse or former spouse
- Cohabitant or former cohabitant
- Dating or engagement relationship
- A person with whom the respondent has had a child

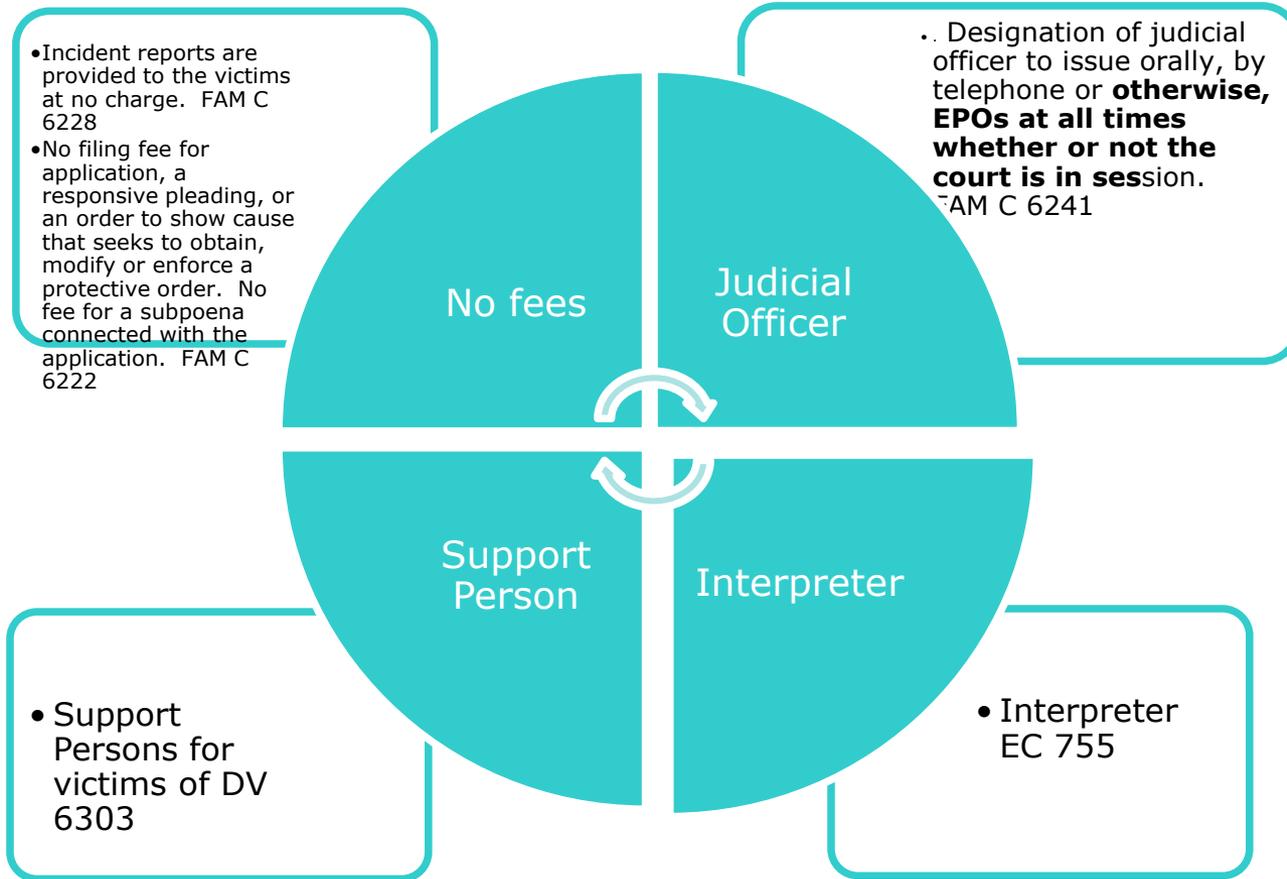


Purpose

Fam C 6220

To prevent recurrence of acts of violence and sexual abuse and to provide for a separation of the persons involved in the domestic violence for a period sufficient to enable these persons to seek a resolution of the causes of the violence.

Adequate Access to the Courts



Mutual Orders

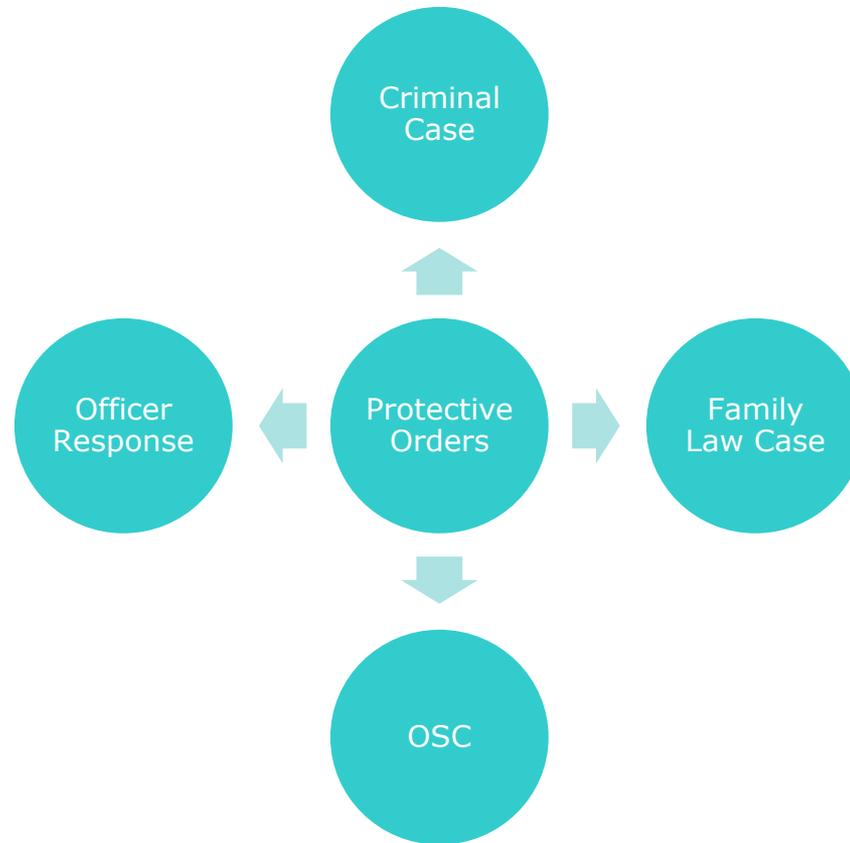
Fam C 6305

- Both parties must personally appear
- Each party presents written evidence of abuse or domestic violence
- The court makes detailed findings
 - Both parties acted as aggressors
 - Neither acted in self defense

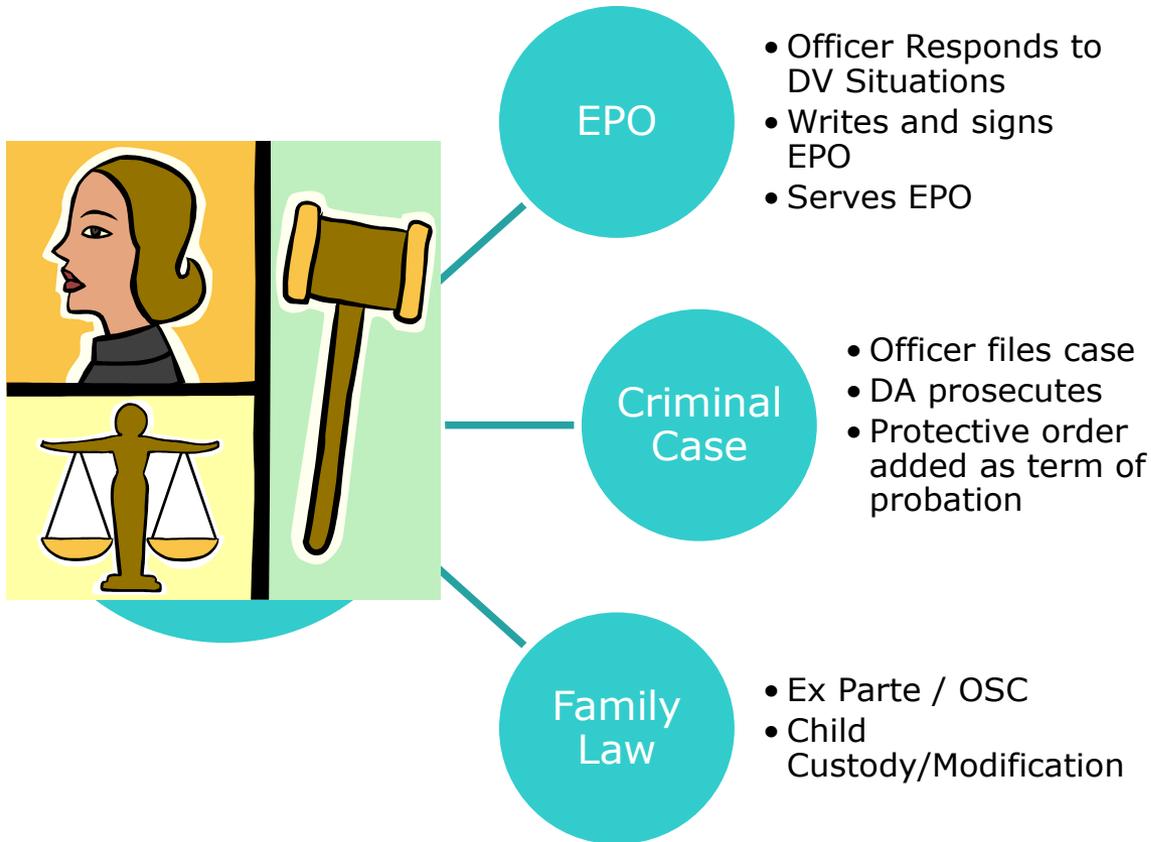
Types of Orders

- Emergency Protective Order (EPO)
- Ex Parte – Temporary Order
- Order to Show Cause (OSC) – Order after hearing
- Criminal Protective Order
- WI 213.5 orders (Not discussed)

Protective Orders



All roads lead to



Fairness to Both Sides



Victim

- Access to Courts
- Concern for Safety
- Domestic Violence Training



Defendant

- Due Process
- Credibility
- Evidence Code



EPO – Grounds for Issuance

FAM C 6275

- Reasonable Cause
- Effective for 5 court days; 7 calendar days
- Findings of the court



Ex Parte Orders

- Temporary-order must be decided the same day the application is made
- Notice can be waived
- Low level of proof
- Expires at OSC hearing
- Requires CLETS order
- OSC scheduled within 20 days



Petition for Ex Parte

- Notice
- Declaration under penalty of perjury
- Last incident of abuse or threats
- Criminal history
- Court proceeding in any other county, state or country
- Reason for denying the request

Standard of Proof for Ex Parte Orders

- If the affidavit provided to the court shows, to the satisfaction of the court, *reasonable proof of a past act or acts of abuse*. Fam C §6300.
- Abuse is bodily injury or threat of injury, stalking, or sexual assault, or behavior that can be enjoined under Fam C §6320(d).

OSC – Notice Hearing

- Notice and Hearing
- Order - Personal Conduct
 1. Excluding a person from dwelling
 2. Participation in Batterer's program - 6343
 3. Restitution for loss of earnings, medical expenses, out-of-pocket; private services; attorney fees
 4. Child support and spousal support
 5. Custody and Visitation order
 6. Animals
 7. Duration of orders
- **V. Registration and Enforcement of the Orders**
 1. CLETS
 2. Willful and Knowing Violation of the order
- PC 273.6
 3. Appointment of Counsel for the victim - 6386



Hearings

The restraining order hearing takes precedence over all other matters on the calendar, except old restraining order matters or matters given special precedence by law. Fam C §244.



DV in San Bernardino County - 09

- EPOs
- Family Law
- Criminal